

## HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1010 (4th sentence).	June 11, 1946, ch. 324, §11 (4th sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## AMENDMENTS

1978—Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

Pub. L. 95-251 substituted references to administrative law judges for references to hearing examiners in section catchline and wherever appearing in text.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

**§ 3345. Acting officer**

(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

(1) the first assistant to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346;

(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of section 3346; or

(3) notwithstanding paragraph (1), the President (and only the President) may direct an officer or employee of such Executive agency to perform the functions and duties of the vacant office temporarily in an acting capacity, subject to the time limitations of section 3346, if—

(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, the officer or employee served in a position in such agency for not less than 90 days; and

(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS-15 of the General Schedule.

(b)(1) Notwithstanding subsection (a)(1), a person may not serve as an acting officer for an office under this section, if—

(A) during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve, such person—

(i) did not serve in the position of first assistant to the office of such officer; or

(ii) served in the position of first assistant to the office of such officer for less than 90 days; and

(B) the President submits a nomination of such person to the Senate for appointment to such office.

(2) Paragraph (1) shall not apply to any person if—

(A) such person is serving as the first assistant to the office of an officer described under subsection (a);

(B) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

(C) the Senate has approved the appointment of such person to such office.

(c)(1) Notwithstanding subsection (a)(1), the President (and only the President) may direct an officer who is nominated by the President for reappointment for an additional term to the same office in an Executive department without a break in service, to continue to serve in that office subject to the time limitations in section 3346, until such time as the Senate has acted to confirm or reject the nomination, notwithstanding adjournment sine die.

(2) For purposes of this section and sections 3346, 3347, 3348, 3349, 3349a, and 3349d, the expiration of a term of office is an inability to perform the functions and duties of such office.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-611; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

## REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(3)(B), is set out under section 5332 of this title.

## AMENDMENTS

2004—Subsec. (a). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions.

## PRIOR PROVISIONS

A prior section 3345, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425; Pub. L. 100-398, §7(a)(1), (2), Aug. 17, 1988, 102 Stat. 988, provided for details to office of head of Executive agency or military department, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998.

## EFFECTIVE DATE

Pub. L. 105-277, div. C, title I, §151(d), Oct. 21, 1998, 112 Stat. 2681-616, provided that:

“(1) EFFECTIVE DATE.—Subject to paragraph (2), this section [enacting this section and sections 3346 to 3349d of this title, repealing former sections 3345 to 3349 of this title, and enacting provisions set out as a note under section 3301 of this title] and the amendments made by this section shall take effect 30 days after the date of enactment of this section [Oct. 21, 1998].

“(2) APPLICATION.—

“(A) IN GENERAL.—This section shall apply to any office that becomes vacant after the effective date of this section.

“(B) IMMEDIATE APPLICATION OF TIME LIMITATION.—Notwithstanding subparagraph (A), for any office vacant on the effective date of this section, the time limitations under section 3346 of title 5, United States Code (as amended by this section) shall apply to such office. Such time limitations shall apply as though such office first became vacant on the effective date of this section.

“(C) CERTAIN NOMINATIONS.—If the President submits to the Senate the nomination of any person

after the effective date of this section for an office for which such person had been nominated before such date, the next nomination of such person after such date shall be considered a first nomination of such person to that office for purposes of sections 3345 through 3349 and section 3349d of title 5, United States Code (as amended by this section)."

ORDER OF SUCCESSION WITHIN DEPARTMENT OF  
HOMELAND SECURITY

For order of succession within the Department of Homeland Security, see Ex. Ord. No. 13286, §88, Feb. 28, 2003, 68 F.R. 10632, set out as a note under section 111 of Title 6, Domestic Security.

EXECUTIVE ORDER No. 10513

Ex. Ord. No. 10513, Jan. 19, 1954, 19 F.R. 369, which designated certain officers of the Department of Labor to act as Secretary of Labor during any period of unavailability of both the Secretary and the Deputy Secretary of Labor, was revoked by Ex. Ord. No. 13245, §4, Dec. 8, 2001, 66 F.R. 66269, set out below.

EXECUTIVE ORDER No. 11274

Ex. Ord. No. 11274, Mar. 30, 1966, 31 F.R. 5243, as amended by Pub. L. 101-509, title V, §529 [title I, §112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454, which designated certain officers of the Department of Housing and Urban Development to act as Secretary of Housing and Urban Development during any period of unavailability of the Secretary, was revoked by Ex. Ord. No. 13243, §4, Dec. 18, 2001, 66 F.R. 66263, set out below.

EXECUTIVE ORDER No. 11487

Ex. Ord. No. 11487, Oct. 6, 1969, 34 F.R. 15593, as amended by Pub. L. 101-509, title V, §529 [title I, §112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454, which designated certain officers of the Department of the Interior to act as Secretary of the Interior during any period of unavailability of both the Secretary and the Deputy Secretary of the Interior, was revoked by Ex. Ord. No. 13244, §4, Dec. 18, 2001, 66 F.R. 66267, set out below.

EXECUTIVE ORDER No. 11822

Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, which designated certain officers of the Department of the Treasury to act as Secretary of the Treasury during any period of unavailability of both the Secretary and the Deputy Secretary of the Treasury, was revoked by Ex. Ord. No. 13246, §4, Dec. 18, 2001, 66 F.R. 66270, set out below.

EXECUTIVE ORDER No. 11880

Ex. Ord. No. 11880, Oct. 2, 1975, 40 F.R. 46089, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12998, Apr. 5, 1996, 61 F.R. 15873, which designated certain officers of the Department of Commerce to act as Secretary of Commerce during any period of unavailability of both the Secretary and the Deputy Secretary of Commerce, was revoked by Ex. Ord. No. 13242, §4, Dec. 18, 2001, 66 F.R. 66261, set out below.

EXECUTIVE ORDER No. 11957

Ex. Ord. No. 11957, Jan. 13, 1977, 42 F.R. 3295, which designated certain officers of the Department of Agriculture to act as Secretary of Agriculture during any period of unavailability of both the Secretary and the Deputy Secretary of Agriculture, was revoked by Ex. Ord. No. 13241, §4, Dec. 18, 2001, 66 F.R. 66259, set out below.

EXECUTIVE ORDER No. 12343

Ex. Ord. No. 12343, Jan. 27, 1982, 47 F.R. 4225, which designated certain officers of the Department of State to act as Secretary of State during any period of unavailability of both the Secretary and the Deputy Sec-

retary of State, was revoked by Ex. Ord. No. 13251, §4, Dec. 28, 2001, 67 F.R. 1599, set out below.

EX. ORD. NO. 12879. ORDER OF SUCCESSION OF OFFICERS  
TO ACT AS SECRETARY OF THE NAVY

Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including [former] section 3347 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Succession to the Authority of the Secretary of the Navy.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of the Navy, the incumbents holding the positions designated below, in the order indicated, shall act for and exercise the powers of the Secretary of the Navy:

(1) The Under Secretary of the Navy.

(2) The Assistant Secretaries and General Counsel of the Navy, in the order fixed by their length of services as permanent appointees in such positions.

(3) The Chief of Naval Operations.

(4) The Commandant of the Marine Corps.

(b) In the event of the temporary absence or temporary disability of the Secretary of the Navy, the incumbents holding the Department of the Navy positions designated in paragraph (a) of this section, in the order indicated, shall act for and exercise the powers of the Secretary of the Navy.

(1) In these instances, the designation of an Acting Secretary of the Navy applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of his office upon his return.

(2) In the event that the Secretary of the Navy is merely absent from this position, the Secretary of the Navy may continue to exercise the powers and fulfill the duties of his office during his absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of the Navy at the time that such appointments are made.

(d) Notwithstanding paragraph (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of the Navy under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

SEC. 2. *Temporary Nature of Succession.* Succession to act for and exercise the powers of the Secretary of the Navy pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory appointment held by the successor.

WILLIAM J. CLINTON.

EX. ORD. NO. 12908. ORDER OF SUCCESSION OF OFFICERS  
TO ACT AS SECRETARY OF THE ARMY

Ex. Ord. No. 12908, Apr. 22, 1994, 59 F.R. 21907, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including [former] section 3347 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Succession To Act as the Secretary of the Army.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of the Army, the incumbents holding the positions designated below, in the order indicated, shall act for and exercise the powers of the Secretary of the Army:

(1) The Under Secretary of the Army.

(2) The Assistant Secretaries and General Counsel of the Army, in the order fixed by their length of service as permanent appointees in such positions.

(3) The Chief of Staff of the Army.

(b) In the event of the absence or temporary disability of the Secretary of the Army, the incumbents holding the Department of the Army positions designated in paragraph (a) of this section, in the order indicated,

shall act for and exercise the powers of the Secretary of the Army.

(1) The designation of an Acting Secretary of the Army under this subsection applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of the Secretary's office.

(2) When the Secretary of the Army is temporarily absent from the position, the Secretary of the Army may continue to exercise the powers and fulfill the duties of his office during his absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of the Army at the time that such appointments are made.

(d) Notwithstanding paragraphs (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of the Army under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

SEC. 2. *Temporary Nature of Succession.* Succession to act for and exercise the powers of the Secretary of the Army pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory appointment held by the successor.

WILLIAM J. CLINTON.

EX. ORD. NO. 12909. ORDER OF SUCCESSION OF OFFICERS TO ACT AS SECRETARY OF THE AIR FORCE

Ex. Ord. No. 12909, Apr. 22, 1994, 59 F.R. 21909, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including [former] section 3347 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Succession To Act as the Secretary of the Air Force.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of the Air Force, the incumbents holding the positions designated below, in the order indicated, shall act for and exercise the powers of the Secretary of the Air Force:

(1) The Under Secretary of the Air Force.

(2) The Assistant Secretaries and General Counsel of the Air Force, in the order fixed by their length of service as permanent appointees in such positions.

(3) The Chief of Staff of the Air Force.

(b) In the event of the absence or temporary disability of the Secretary of the Air Force, the incumbents holding the Department of the Air Force positions designated in paragraph (a) of this section, in the order indicated, shall act for and exercise the powers of the Secretary of the Air Force.

(1) The designation of an Acting Secretary of the Air Force applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of the Secretary's office.

(2) In the event that the Secretary of the Air Force is temporarily absent from the position, the Secretary of the Air Force may continue to exercise the powers and fulfill the duties of his office during the absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of the Air Force at the time that such appointments are made.

(d) Notwithstanding paragraphs (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of the Air Force under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

SEC. 2. *Temporary Nature of Succession.* Succession to act for and exercise the powers of the Secretary of the Air Force pursuant to this order shall be on a temporary or interim basis and shall not have the effect of

vacating the statutory appointment held by the successor.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 13000

Ex. Ord. No. 13000, Apr. 24, 1996, 61 F.R. 18483, which provided an order of succession of officers to act as Secretary of Defense, was revoked by Ex. Ord. No. 13394, §5, Dec. 22, 2005, 70 F.R. 76666, set out below.

EX. ORD. NO. 13241. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF AGRICULTURE

Ex. Ord. No. 13241, Dec. 18, 2001, 66 F.R. 66258, as amended by Ex. Ord. No. 13261, §4(a), Mar. 19, 2002, 67 F.R. 13243, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Agriculture (Secretary) during any period when both the Secretary and the Deputy Secretary of Agriculture (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

(a) Under Secretary of Agriculture for Farm and Foreign Agricultural Services;

(b) Under Secretary of Agriculture for Marketing and Regulatory Programs;

(c) Under Secretary of Agriculture for Rural Development;

(d) Under Secretary of Agriculture for Food, Nutrition, and Consumer Services;

(e) Under Secretary of Agriculture for Natural Resources and Environment;

(f) Under Secretary of Agriculture for Research, Education, and Economics;

(g) Under Secretary of Agriculture for Food Safety;

(h) General Counsel of the Department of Agriculture;

(i) Assistant Secretary of Agriculture for Administration; and

(j) Assistant Secretary of Agriculture for Congressional Relations.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(j) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11957 of January 13, 1977, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13242. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF COMMERCE

Ex. Ord. No. 13242, Dec. 18, 2001, 66 F.R. 66260, as amended by Ex. Ord. No. 13261, §4(b), Mar. 19, 2002, 67 F.R. 13243, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Commerce (Secretary) during any period when both the Secretary and the Deputy Secretary of Commerce (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) General Counsel of the Department of Commerce;
- (b) Under Secretary of Commerce for International Trade;
- (c) Under Secretary of Commerce for Economic Affairs;
- (d) Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration;
- (e) Under Secretary of Commerce for Technology;
- (f) Under Secretary of Commerce for Export Administration;
- (g) Chief Financial Officer of the Department of Commerce and Assistant Secretary of Commerce in charge of Administration; and
- (h) Assistant Secretary of Commerce in charge of Legislative and Intergovernmental Affairs.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11880 of October 2, 1975, Executive Order 12998 of April 5, 1996, and section 26 of Executive Order 12608 of September 9, 1987, are hereby revoked.

GEORGE W. BUSH.

**EX. ORD. NO. 13243. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ex. Ord. No. 13243, Dec. 18, 2001, 66 F.R. 66262, as amended by Ex. Ord. No. 13261, §4(c), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Housing and Urban Development (Secretary) during any period when both the Secretary and the Deputy Secretary of Housing and Urban Development (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

**SEC. 2. Order of Succession.**

(a) General Counsel of the Department of Housing and Urban Development;

(b) Assistant Secretary of Housing and Urban Development in charge of Housing-Federal Housing Commission;

(c) Assistant Secretary of Housing and Urban Development in charge of Community, Planning and Development;

(d) Assistant Secretary of Housing and Urban Development in charge of Public and Indian Housing;

(e) Assistant Secretary of Housing and Urban Development in charge of Policy Development and Research;

(f) Assistant Secretary of Housing and Urban Development in charge of Fair Housing and Equal Opportunity;

(g) Assistant Secretary of Housing and Urban Development in charge of Congressional and Intergovernmental Relations;

(h) Assistant Secretary of Housing and Urban Development in charge of Administration; and

(i) Assistant Secretary of Housing and Urban Development in charge of Public Affairs.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(i) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent

permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11274 of March 30, 1996, is hereby revoked.

GEORGE W. BUSH.

**EX. ORD. NO. 13244. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF THE INTERIOR**

Ex. Ord. No. 13244, Dec. 18, 2001, 66 F.R. 66267, as amended by Ex. Ord. No. 13261, §4(d), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Interior (Secretary) during any period when both the Secretary and the Deputy Secretary of the Interior (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

**SEC. 2. Order of Succession.**

(a) Solicitor of the Department of the Interior;

(b) Assistant Secretary of the Interior in charge of Policy, Management and Budget;

(c) Assistant Secretary of the Interior in charge of Land and Minerals Management;

(d) Assistant Secretary of the Interior in charge of Water and Science;

(e) Assistant Secretary of the Interior for Fish and Wildlife and Parks; and

(f) Assistant Secretary of the Interior for Indian Affairs.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(f) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11487 of October 6, 1969, is hereby revoked.

GEORGE W. BUSH.

**EX. ORD. NO. 13245. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF LABOR**

Ex. Ord. No. 13245, Dec. 18, 2001, 66 F.R. 66268, as amended by Ex. Ord. No. 13261, §4(e), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period when both the Secretary and the Deputy Secretary of Labor (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

**SEC. 2. Order of Succession.**

(a) Solicitor of Labor;

(b) Assistant Secretary of Labor in charge of Administration and Management;

(c) Assistant Secretary of Labor in charge of Policy;

(d) Assistant Secretary of Labor in charge of Congressional and Intergovernmental Affairs;

(e) Assistant Secretary of Labor in charge of the Employment and Training Administration;

(f) Assistant Secretary of Labor in charge of the Employment Standards Administration;

(g) Assistant Secretary of Labor in charge of the Pension and Welfare Benefits Administration;

(h) Assistant Secretary of Labor for Occupational Safety and Health;

(i) Assistant Secretary of Labor for Mine Safety and Health;

(j) Assistant Secretary of Labor in charge of the Office of Public Affairs;

(k) Assistant Secretary of Labor for Veterans' Employment and Training; and

(l) Assistant Secretary of Labor in charge of the Office of Disability Employment Policy.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(l) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 10513 of January 19, 1954, is hereby revoked.

GEORGE W. BUSH.

**EX. ORD. NO. 13246. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF THE TREASURY**

Ex. Ord. No. 13246, Dec. 18, 2001, 66 F.R. 66270, as amended by Ex. Ord. No. 13261, §4(f), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Treasury (Secretary) during any period when both the Secretary and the Deputy Secretary of the Treasury (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

**SEC. 2. Order of Succession.**

(a) Under Secretaries of the Treasury (including the Under Secretary of the Treasury for Enforcement), in the order in which they shall have taken the oath of office as such officers;

(b) General Counsel of the Department of the Treasury; and

(c) Deputy Under Secretaries of the Treasury and those Assistant Secretaries of the Treasury appointed by the President by and with the consent of the Senate, in the order in which they shall have taken the oath of office as such officers.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(c) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11822 of December 10, 1974, is hereby revoked.

GEORGE W. BUSH.

**EX. ORD. NO. 13247. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF VETERANS AFFAIRS**

Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, as amended by Ex. Ord. No. 13261, §4(g), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SEC. 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Veterans Affairs

(Secretary) during any period when both the Secretary and the Deputy Secretary of Veterans Affairs (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

**SEC. 2. Order of Succession.**

(a) Under Secretary of Veterans Affairs for Health;

(b) Under Secretary of Veterans Affairs for Benefits;

(c) Under Secretary of Veterans Affairs for Memorial Affairs;

(d) General Counsel of the Department of Veterans Affairs;

(e) Assistant Secretaries of Veterans Affairs, in the order in which they shall have taken the oath of office as Assistant Secretaries, other than the Chief Financial Officer and, if an Assistant Secretary, the Chief Information Officer;

(f) Chief Information Officer of the Department of Veterans Affairs, if the Chief Information Officer is an officer appointed by the President by and with the consent of the Senate;

(g) Chief Financial Officer of the Department of Veterans Affairs; and

(h) Chairman, Board of Veterans' Appeals.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

GEORGE W. BUSH.

**EX. ORD. NO. 13250. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Ex. Ord. No. 13250, Dec. 28, 2001, 67 F.R. 1597, as amended by Ex. Ord. No. 13261, §4(h), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the Office of the Secretary of Health and Human Services (Secretary) during any period when both the Secretary and the Deputy Secretary of Health and Human Services (Deputy Secretary) have died, resigned, or become otherwise unable to perform the functions and duties of the office of Secretary.

**SEC. 2. Order of Succession.**

(a) The Assistant Secretaries of Health and Human Services appointed by the President and confirmed by the Senate, in the order in which they shall have taken the oath of office as such;

(b) The General Counsel of the Department of Health and Human Services; and

(c) Other officers within the Department of Health and Human Services who have been appointed by the President by and with the consent of the Senate, in the order in which they shall have taken the oath of office as such.

**SEC. 3. Exceptions.**

(a) No individual who is serving in an office listed in section 2(a)–(c) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this order in designating an acting Secretary.

GEORGE W. BUSH.

**EX. ORD. NO. 13251. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF STATE**

Ex. Ord. No. 13251, Dec. 28, 2001, 67 F.R. 1599, as amended by Ex. Ord. No. 13261, §4(i), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as, and perform the duties of, the office of Secretary of State (Secretary) during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

(a) Deputy Secretary of State;  
(b) Deputy Secretary of State for Management and Resources;

(c) Under Secretary of State designated for political affairs pursuant to section 2651a(b) of title 22, United States Code;

(d) Under Secretary of State designated for management affairs pursuant to section 2651a(b) of title 22, United States Code;

(e) The remaining Under Secretaries of State, in the order in which they shall have taken the oath of office as such;

(f) Assistant Secretaries of State designated for regional bureaus pursuant to section 2651a(c) of title 22, United States Code, in the order in which they shall have taken the oath of office as such;

(g) The following officers, in the order in which they shall have taken the oath of office as such:

- (1) Remaining Assistant Secretaries of State;
- (2) Coordinator for Counterterrorism;
- (3) Director General of the Foreign Service; and
- (4) Legal Adviser;

(h) United States Representative to the United Nations (New York);

(i) Deputy United States Representative to the United Nations (New York);

(j) The following other United States Representatives to the United Nations (New York), in the order in which they shall have taken the oath of office as such:

- (1) United States Representative to the United Nations for United Nations Management and Reform;
- (2) United States Representative to the United Nations on the Economic and Social Council of the United Nations; and
- (3) Alternate United States Representative to the United Nations for Special Political Affairs in the United Nations;

(k) The following Chiefs of Mission, in the order listed:

- (1) United States Ambassador to the United Kingdom;
- (2) United States Ambassador to Canada;
- (3) United States Ambassador to Australia;
- (4) United States Ambassador to Mexico;
- (5) United States Ambassador to Japan; and
- (6) United States Ambassador to India;

(l) The following officers, in the order in which they shall have taken the oath of office as such:

- (1) United States Ambassadors at Large;
- (2) Counselor; and
- (3) Special Representatives of the President; and

(m) The remaining Chiefs of Mission, in the order in which they shall have taken the oath of office as such.

SEC. 3. *Exceptions.*

(a) No individual who has not been appointed by the President by and with the consent of the Senate shall act as Secretary pursuant to this order.

(b) No individual who is serving in an office listed in section 2(a)–(m) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this order in designating an acting Secretary.

(d) A successor office, intended to be the equivalent of an office identified in section 2 of this order, shall be deemed to be the position identified in section 2 for purposes of this order.

SEC. 4. Executive Order 12343 of January 27, 1982, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13261. PROVIDING AN ORDER OF SUCCESSION IN THE ENVIRONMENTAL PROTECTION AGENCY AND AMENDING CERTAIN ORDERS ON SUCCESSION

Ex. Ord. No. 13261, Mar. 19, 2002, 67 F.R. 13243, as amended by Ex. Ord. No. 13344, July 7, 2004, 69 F.R. 41747, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of the Administrator of the Environmental Protection Agency (Administrator) during any period when both the Administrator and the Deputy Administrator of the Environmental Protection Agency have died, resigned, or become otherwise unable to perform the functions and duties of the office of Administrator.

SEC. 2. *Order of Succession.*

(a) Assistant Administrator, Office of Solid Waste;  
(b) Assistant Administrator for Toxic Substances;  
(c) Assistant Administrator (Air and Radiation).[]  
(d) Assistant Administrator (Water Programs);  
(e) Assistant Administrator (General Counsel);  
(f) Assistant Administrator (Enforcement and Compliance Assurance);

(g) Chief Financial Officer;

(h) Assistant Administrator (Research and Development);

(i) Assistant Administrator (International Activities);

(j) Assistant Administrator (Administration and Resources Management); and

(k) Assistant Administrator (Environmental Information).

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(k) in an acting capacity, by virtue of so serving, shall act as Administrator pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this order in designating an acting Administrator.

SEC. 4. *Amendments to Certain Executive Orders providing Orders of Succession.* Executive Orders 13241, 13242, 13243, 13244, 13245, 13246, and 13247 of December 18, 2001, and Executive Orders 13250 and 13251 of December 28, 2001, are hereby amended as follows:

- (a) [Amended Ex. Ord. No. 13241, set out above;]
- (b) [Amended Ex. Ord. No. 13242, set out above;]
- (c) [Amended Ex. Ord. No. 13243, set out above;]
- (d) [Amended Ex. Ord. No. 13244, set out above;]
- (e) [Amended Ex. Ord. No. 13245, set out above;]
- (f) [Amended Ex. Ord. No. 13246, set out above;]
- (g) [Amended Ex. Ord. No. 13247, set out above;]
- (h) [Amended Ex. Ord. No. 13250, set out above; and]
- (i) [Amended Ex. Ord. No. 13251, set out above.]

GEORGE W. BUSH.

EX. ORD. NO. 13370. PROVIDING AN ORDER OF SUCCESSION IN THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 13370, Jan. 13, 2005, 70 F.R. 3137, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and pursuant to the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. During any period when the Director of the Office of Management and Budget (Director) and the Deputy Director of the Office of Management and Budget (Deputy Director) have died, resigned, or otherwise become unable to perform the functions and duties

of the office of Director, the following officers of the Office of Management and Budget, in the order listed, shall perform the functions and duties of the office of Director, if they are eligible to act as Director under the provisions of the Federal Vacancies Reform Act of 1998, until such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Director:

- Deputy Director for Management;
- Executive Associate Director;
- Associate Director (National Security Programs);
- Associate Director (General Government Programs);
- Associate Director (Human Resource Programs);
- Associate Director (Natural Resource Programs);
- General Counsel;
- Administrator for Federal Procurement Policy;
- Administrator of the Office of Information and Regulatory Affairs;
- Controller, Office of Federal Financial Management; and
- Administrator of the Office of Electronic Government.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Director pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Director.

GEORGE W. BUSH.

EX. ORD. NO. 13394. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF DEFENSE

Ex. Ord. No. 13394, Dec. 22, 2005, 70 F.R. 76665, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered as follows:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of the Secretary of Defense (Secretary) during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) Deputy Secretary of Defense;
- (b) Under Secretary of Defense for Intelligence;
- (c) Under Secretary of Defense for Policy;
- (d) Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (e) Secretary of the Army;
- (f) Secretary of the Air Force;
- (g) Secretary of the Navy;
- (h) Under Secretary of Defense for Personnel and Readiness and the Under Secretary of Defense (Comptroller);
- (i) Deputy Under Secretary of Defense for Acquisition and Technology, Deputy Under Secretary of Defense for Policy, and Deputy Under Secretary of Defense for Personnel and Readiness;
- (j) General Counsel of the Department of Defense, the Assistant Secretaries of Defense, and the Director of Operational Test and Evaluation;
- (k) Deputy Under Secretary of Defense for Logistics and Material Readiness and the Director of Defense Research and Engineering;
- (l) Under Secretaries of the Army, the Navy, and the Air Force; and
- (m) Assistant Secretaries of the Army, the Navy, and the Air Force, and General Counsels of the Army, the Navy, and the Air Force.

SEC. 3. *Exceptions.* (a) No individual who is serving in an office listed in section 2(a)–(m) in an acting capacity shall act as Secretary pursuant to this order.

(b) Precedence among officers designated within the same subsection of section 2 of this order shall be determined by the order in which they have been appointed to such office by the President. Where officers designated within the same subsection of section 2 of this order are appointed on the same date, precedence will be determined by the order in which they have taken the oath to serve in that office.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

SEC. 4. *Judicial Review.* This order is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

SEC. 5. *Revocation.* Executive Order No. 13000 of April 24, 1996 [formerly set out above], and the President's memorandum of June 2, 2005, entitled: "Order of Succession of Officers to Act as Secretary of Defense," [not set out in the Code] are hereby revoked.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO ACT AS DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY

Memorandum of President of the United States, Nov. 26, 2002, 67 F.R. 79513, which provided for an order of succession within the Federal Emergency Management Agency, terminated upon the transfer of the authorities, functions, personnel, and assets of the Federal Emergency Management Agency to the Department of Homeland Security.

DESIGNATION OF OFFICERS OF THE DEPARTMENT OF VETERANS AFFAIRS TO ACT AS SECRETARY OF VETERANS AFFAIRS

Memorandum of President of the United States, Feb. 12, 2003, 68 F.R. 10141, provided:

Memorandum for the Secretary of Veterans Affairs

By the authority vested in me as President under the Constitution and laws of the United States of America and pursuant to the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, I hereby order that:

SECTION 1. *Order of Succession.*

During any period when the Secretary of Veterans Affairs (Secretary), the Deputy Secretary of Veterans Affairs (Deputy Secretary), and the officers designated by Executive Order 13247 of December 18, 2001 [set out above], to perform the functions and duties of the office of Secretary have died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary, the following officers of the Department of Veterans Affairs, in the order listed, shall perform the functions and duties of the office of Secretary, if they are eligible to act as Secretary under the provisions of the Federal Vacancies Reform Act of 1998, until such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Secretary:

Veterans Integrated Service Network (VISN) 8 Director, Veterans Health Administration;

VISN 7 Director, Veterans Health Administration;

Veterans Benefits Administration Southern Area Director; and

North Florida/South Georgia Healthcare System Director.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this memorandum in designating an acting Secretary.

*SEC. 3. Publication.*

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE OFFICE OF PERSONNEL MANAGEMENT TO ACT AS DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

Memorandum of President of the United States, Mar. 11, 2003, 68 F.R. 12281, which provided for an order of succession within the Office of Personnel Management, was superseded by Memorandum of President of the United States, May 5, 2005, 70 F.R. 28773, set out below.

Memorandum of President of the United States, May 5, 2005, 70 F.R. 28773, provided:

Memorandum for the Director of the Office of Personnel Management

By the authority vested in me as President under the Constitution and laws of the United States of America and pursuant to the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, I hereby order that:

*SECTION 1. Order of Succession.*

During any period when the Director of the Office of Personnel Management (Director), or the Deputy Director of the Office of Personnel Management, has died, resigned, or otherwise become unable to perform the functions and duties of the office of Director, the following officers of the Office of Personnel Management, in the order listed, shall perform the functions and duties of the office of Director, if they are eligible to act as Director under the provisions of the Federal Vacancies Reform Act of 1998, until such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Director:

General Counsel;  
Chief of Staff;  
Director, Office of Communications and Public Liaison;  
Director, Office of Congressional Relations;  
Associate Director, Human Resources Products and Services;  
Associate Director for Management;  
Associate Director, Strategic Human Resources Policy;  
Chief Financial Officer;  
Associate Director, Human Capital Leadership and Merit Systems Accountability;  
Deputy Associate Director, Center for Investigations Services; and  
Director, Federal Executive Institute.

*SEC. 2. Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Director pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345–3349d, to depart from this memorandum in designating an acting Director.

*SEC. 3. Prior Memorandum Superseded.*

This memorandum supercedes the Presidential Memorandum of March 11, 2003 [formerly set out above], entitled, “Designation of Officers of the Office of Personnel Management to Act as Director of the Office of Personnel Management.”

*SEC. 4. Publication.*

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE TO ACT AS DIRECTOR OF NATIONAL INTELLIGENCE

Memorandum of President of the United States, Dec. 20, 2005, 70 F.R. 76375, provided:

Memorandum for the Director of National Intelligence

By the authority vested in me as President by the Constitution and laws of the United States of America,

including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of sections 3 and 4 of this memorandum, the officers of the Office of the Director of National Intelligence named in section 2, in the order listed, shall act as and perform the functions and duties of the office of the Director of National Intelligence (DNI), during any period in which the DNI and the Principal Deputy Director of National Intelligence have died, resigned, or otherwise become unable to perform the functions and duties of the office of the DNI, until such time as at least one of the officers listed in this section is able to perform the functions and duties of the DNI.

*SEC. 2. Order of Succession.*

(a) Deputy Director of National Intelligence for Management;

(b) Deputy Director of National Intelligence for Collection;

(c) Deputy Director of National Intelligence for Analysis;

(d) Deputy Director of National Intelligence for Customer Outcomes;

(e) Chief of Staff, Office of the Director of National Intelligence;

(f) General Counsel, Office of the Director of National Intelligence; and

(g) Chief Information Officer, Office of the Director of National Intelligence.

SEC. 3. National Security Act of 1947. This memorandum shall not supercede the authority of the Principal Deputy Director of National Intelligence to act for, and exercise the powers of, the Director of National Intelligence during the absence or disability of the Director of National Intelligence or during a vacancy in the position of Director of National Intelligence, (National Security Act of 1947, as amended, 50 U.S.C. 403–3a).

*SEC. 4. Exceptions.*

(a) No individual who is serving in an office listed in section 2 in an acting capacity shall act as the DNI pursuant to this section.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting DNI.

*SEC. 5. Publication.*

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE SOCIAL SECURITY ADMINISTRATION

Memorandum of President of the United States, Apr. 17, 2006, 71 F.R. 20333, provided:

Memorandum for the Commissioner of Social Security

By the authority vested in me as President under the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, I hereby order that:

*SECTION 1. Order of Succession.*

During any period when both the Commissioner of Social Security (Commissioner) and the Deputy Commissioner of Social Security (Deputy Commissioner) have died, resigned, or otherwise become unable to perform the functions and duties of the office of Commissioner, the following officers of the Social Security Administration, in the order listed, shall perform the functions and duties of the office of Commissioner, if they are eligible to act as Commissioner under the provisions of the Federal Vacancies Reform Act of 1998, until such time as the Commissioner or Deputy Commissioner is able to perform the functions and duties of the office of Commissioner:

Chief of Staff;

Deputy Commissioner for Operations;

Regional Commissioner, Philadelphia; and

Regional Commissioner, Dallas.

*SEC. 2. Exceptions.*



(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Commissioner pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this memorandum in designating an acting Commissioner.

SEC. 3. *Prior Memorandum Superseded.*

This memorandum supersedes the Presidential Memorandum of May 9, 2002, entitled “Designation of Officers of the Social Security Administration.”

SEC. 4. *Publication.*

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

#### DESIGNATION OF OFFICERS OF THE DEPARTMENT OF JUSTICE

Memorandum of President of the United States, Dec. 8, 2006, 71 F.R. 74753, provided:

Memorandum for the Attorney General

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, I hereby order that:

SECTION 1. *Order of Succession.* During any period when the Attorney General, the Deputy Attorney General, the Associate Attorney General, and the officers designated by the Attorney General pursuant to 28 U.S.C. 508 to act as Attorney General have died, resigned, or otherwise become unable to perform the functions and duties of the office of Attorney General, the following officers of the Department of Justice, in the order listed, shall perform the functions and duties of the office of Attorney General, if they are eligible to act as Attorney General under the Federal Vacancies Reform Act of 1998, until such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Attorney General:

United States Attorney for the Southern District of New York;

United States Attorney for the Eastern District of Virginia; and

United States Attorney for the Western District of Texas.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Attorney General pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this memorandum in designating an acting Attorney General.

SEC. 3. The Memorandum for the Attorney General of March 19, 2002, entitled “Designation of Officers of the Department of Justice,” is hereby revoked.

SEC. 4. The Attorney General is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

#### § 3346. Time limitation

(a) Except in the case of a vacancy caused by sickness, the person serving as an acting officer as described under section 3345 may serve in the office—

(1) for no longer than 210 days beginning on the date the vacancy occurs; or

(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the nomination is pending in the Senate.

(b)(1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned

to the President by the Senate, the person may continue to serve as the acting officer for no more than 210 days after the date of such rejection, withdrawal, or return.

(2) Notwithstanding paragraph (1), if a second nomination for the office is submitted to the Senate after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve—

(A) until the second nomination is confirmed; or

(B) for no more than 210 days after the second nomination is rejected, withdrawn, or returned.

(c) If a vacancy occurs during an adjournment of the Congress sine die, the 210-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-612.)

#### PRIOR PROVISIONS

A prior section 3346, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426, provided for details to subordinate offices, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998. See section 3345 of this title.

#### EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

#### § 3347. Exclusivity

(a) Sections 3345 and 3346 are the exclusive means for temporarily authorizing an acting official to perform the functions and duties of any office of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless—

(1) a statutory provision expressly—

(A) authorizes the President, a court, or the head of an Executive department, to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

(B) designates an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

(2) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) to delegate duties statutorily vested in that agency head to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a)(1) applies.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-613; amended Pub. L.